



[3510-16]

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

[Docket No.: PTO-C-2011-0081]

Extension of Comment Period Regarding Comments on Intellectual Property Enforcement in China

AGENCY: United States Patent and Trademark Office, Department of Commerce.

ACTION: Notice of extension of public comment period.

SUMMARY: To provide interested parties with the opportunity to comment further to the original request for public comment (see <http://www.gpo.gov/fdsys/pkg/FR-2011-10-17/pdf/2011-26757.pdf>), The United States Patent and Trademark Office (“USPTO”) is extending the period for public comment regarding any challenges that U.S. inventors and companies are facing with the judicial and/or administrative patent enforcement systems of the People’s Republic of China.

USPTO invites any member of the public to submit written comments on China’s patent enforcement system, including, but not limited to, the following five topics:

acquisition and enforcement of utility model and design patents; evidence collection and preservation in Chinese courts; obtaining damages and injunctions; enforceability of court orders and judgments; and administrative patent enforcement. The USPTO would like to resolve rights holders' concerns by working with them to identify problems regarding these and other areas of China's patent enforcement system so that it can then address these issues with the Chinese Government. To help the USPTO address these issues, it encourages interested members of the public to respond to this request.

DATES: Written comments must be received on or before [Insert date 14 days after publication in the FEDERAL REGISTER].

ADDRESSES: Written comments should be sent by electronic mail message via the Internet addressed to IP.Policy@uspto.gov. Comments may also be submitted by mail addressed to: Mail Stop OPEA, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450, Attn: Elizabeth Shaw. Although comments may be submitted by mail, the USPTO prefers to receive comments via the Internet. If you would like to submit confidential business information that supports your comments, please contact Elizabeth Shaw at elizabeth.shaw2@uspto.gov, or 571-272-8494.

The written comments will be available for public inspection by appointment only at the Office of Policy and External Affairs in the Executive Library located in the Madison

West Building, Tenth Floor, 600 Dulany Street, Alexandria, Virginia, 22314. Contact: Elizabeth Shaw at elizabeth.shaw2@uspto.gov, or 571-272- 8494.

Because comments will be made available for public inspection, information that is not desired to be made public, such as an address or phone number should not be included in the comments.

FOR FURTHER INFORMATION CONTACT: Elizabeth Shaw, Office of Policy and External Affairs, by phone 571-272-8494, by facsimile to 571-273-0123, by e-mail at elizabeth.shaw2@uspto.gov, or by mail addressed to: Mail Stop OPEA, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, Virginia 22313-1450, ATTN: Elizabeth Shaw.

SUPPLEMENTARY INFORMATION: On October 17, 2011, the USPTO published a Request for Comments on Intellectual Property Enforcement in China. See 76 FR 64075, Oct. 17, 2011. More specifically, the USPTO invited members of the public to comment on their patent enforcement experiences in China. Of concern were the two primary avenues of patent enforcement in China: the judiciary; and the State Intellectual Property Office (SIPO). In regard to the former, concerns over China's judiciary (such as lack of adequate discovery powers, evidentiary burdens, and low damages rewards) have been cited as reasons why U.S. and foreign companies do not file more patent suits in Chinese courts. In regard to the latter, limited investigative powers of the agency and ineffectual

penalties for infringement have been cited as reasons for the weakness of this enforcement route.

The notice invited the public to submit written comments on China's patent enforcement system, including, but not limited to, the following five topics: (1) acquisition and enforcement of utility model and design patents; (2) evidence collection and preservation in Chinese courts; (3) obtaining damages and injunctions; (4) enforceability of court orders; and (5) administrative patent enforcement. The USPTO is now extending the period for submission of public comments until [insert date 14 days after publication in the FEDERAL REGISTER].

Date: November 30, 2011

David J. Kappos
Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office

[FR Doc. 2011-31305 Filed 12/06/2011 at 8:45 am; Publication Date: 12/07/2011]